

APPEAL NO. 023188  
FILED JANUARY 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 18, 2002. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the second compensable quarter. The appellant (carrier) appeals this decision. The claimant urges affirmance of the hearing officer's decision

DECISION

Affirmed.

Section 408.142(a) outlines the requirements for SIBs eligibility as follows:

An employee is entitled to [SIBs] if on the expiration of the impairment income benefits [IIBs] period computed under Section 408.121(a)(1) the employee:

- (1) has an impairment rating of 15 percent or more as determined by this subtitle from the compensable injury;
- (2) has not returned to work or has returned to work earning less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment;
- (3) has not elected to commute a portion of the [IIBs] under Section 408.128; and
- (4) has attempted in good faith to obtain employment commensurate with the employee's ability to work.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)) provides that an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. This rule goes on to list a number of factors which may be considered in determining whether a good faith effort was made including the number and types of jobs sought, the existence of applications or resumes to document the job search efforts, any job search plan, and the amount of time spent in attempting to find employment.

In the present case, the claimant was employed for eight days during the qualifying period in question. The claimant documented at least one job search during each of the remaining weeks of the qualifying period. The carrier contends that the

claimant “has not made a good faith job search because she searched for jobs when she believed that she could not return to work.” Whether the claimant satisfied the good faith requirement for SIBs entitlement was a factual question for the hearing officer to resolve. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's SIBs determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**THE CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

---

Chris Cowan  
Appeals Judge

CONCUR:

---

Judy L. S. Barnes  
Appeals Judge

---

Thomas A. Knapp  
Appeals Judge